

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Facilitating Opportunities for Flexible, Efficient
And Reliable Spectrum Use Employing Cognitive
Radio Technologies

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) ET Docket No 03-108
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**RESPONSE OF THE INFORMATION TECHNOLOGY INDUSTRY COUNCIL
TO MSS PETITION FOR RECONSIDERATION**

The Information Technology Industry Council (ITI) hereby respectfully submits these comments in response to the Petition for Reconsideration by Marcus Spectrum Solutions (MSS) in the above-captioned proceeding.¹ ITI wishes to address the section of MSS' comments concerning Digital-to-Analog converter cards (DAC)s and their proposal in support of additional safeguard requirements for DACs.²

In its Order, the Commission ruled with industry that additional regulations specifically for DACs were not necessary.³ This decision is supported by the public record that shows that, while SDR rules have been in place for several years, there has been no reported widespread misuse of these cards. In its Petition, MSS fails to provide

¹ *Facilitating Opportunities for Flexible, Efficient and Radio Spectrum Use Employing Cognitive Radio Technologies*, ET Docket No. 03-108, Report and Order, released March 11, 2005 (hereinafter "Order").

² Marcus Spectrum Solutions (MSS), Petition for Reconsideration, ET Docket No. 03-108, pp. 4-10 (hereinafter "MSS Petition").

³ FCC Order, Para. 62.

proof to the contrary. Rather, MSS suggests an impending, hypothetical problem, stating that there will be a massive move by industry and consumers to develop software which will allow DACs to be used in illicit or illegal radios that operate on any and all bands, including those that are restricted.⁴ Again, even from before the time SDR certification was permitted, FCC records show little evidence that would support the likelihood of cards being converted into unauthorized radios.

The adoption of SDR has neither changed nor waived the requirement that intentional radiators must be certified in accordance with the applicable regulations and technical rules under Title 47 of the Code of Federal Regulations. Therefore, all such devices operating as radios, whether modified via hardware or software, are still required to be certified for operation in the designated band. ITI believes that enforcement of these existing regulations will adequately prevent DAC-modified radio devices such as those described by MSS from being readily available to the public.

With no public record to indicate that widespread misuse of DACs in radios is likely, and given the existence of current regulations governing intentional radiators, ITI agrees with the Commission's original decision to not place additional restrictions on DAC technology. Therefore, we ask the Commission to reject this part of the MSS Petition.

⁴ MSS Petition, pp. 6-8.